

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:	§	Chapter 11
	§	
TAILORED BRANDS, INC., <i>et al.</i> , <sup>1</sup>	§	Case No. 20-33900 (MI)
	§	
Debtors.	§	(Jointly Administered)

**LIMITED OBJECTION OF PODCO ADDISON, LLC TO  
THE DEBTORS' PLAN SUPPLEMENT FOR THE  
DEBTORS' FOURTH AMENDED JOINT PLAN OF REORGANIZATION**  
(Relates to ECF No. 959)

COMES NOW, Podco Addison, LLC ("Podco") and files *this Limited Objection of Podco Addison, LLC to the Debtors' Plan Supplement for the Debtors' Fourth Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (the "Objection") and respectfully state as follows:

**PRELIMINARY STATEMENT**

1. Podco objects to the cure amount proposed by the Debtors. The Debtors have accrued an arrearage on account of the Lease (defined below) amounting to \$315,243.99. This amount includes base rent, taxes, and attorneys' fees. The Debtors' proposed cure amount lists only \$17,035.06. Further, Podco objects to any assumption of the Lease that fails to incorporate the obligations contemplated by each of the two amendments to the Lease. The Debtors' assumption notice does not clearly assume the Lease inclusive of its amendments.

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtors' federal tax identification number are: Tailored Brands, Inc. (8760); JA Apparel Corp. (2715); Jos. A. Bank Clothiers, Inc. (9198); Joseph Abboud Manufacturing Corp. (3757); K&G Men's Company, Inc. (7726); Moores Retail Group Corp. (2464); Moores The Suit People Corp. (1246); MWDC Holding Inc. (2643); Nashawena Mills Corp. (6845); Renwick Technologies, Inc. (6365); Tailored Brands Gift Co LLC (9484); Tailored Brands Purchasing LLC (4219); Tailored Brands Worldwide Purchasing Co. (0881); Tailored Brands Shared Services, LLC (4752); TB UK Holding Limited (1185); The Joseph A. Bank Mfg. Co., Inc. (6727); The Men's Wearhouse, Inc. (0172); and TMW Merchants LLC (7595). The location of the Debtors' service address is 6100 Stevenson Boulevard, Fremont, California 94538.

**CURE CLAIM OBJECTION**

2. On August 2, 2020 (the “Petition Date”), Tailored Brands, Inc., *et al.*, (the “Debtors”) filed their voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

3. The Debtors have continued to operate their business and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. On October 27, 2020, the Debtors filed the *Debtors’ Plan Supplement for the Debtors’ Fourth Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (the “Plan Supplement”) (ECF No. 959). The Plan Supplement lists the “Property Lease (4001) Addison DC” as an assumed lease and proposes a cure amount of \$17,035.06 to satisfy monetary defaults under the assumed lease (the “Proposed Cure Amount”).

5. The Property Lease (4001) Addison DC refers to a lease agreement (the “Lease”) executed by Podco and the Men’s Wearhouse, Inc. (the “Men’s Wearhouse”) on March 7, 1994, for the premises located at 2101 Executive Drive, Addison, IL 60101 (the “Leased Premises”). Podco and the Men’s Wearhouse subsequently amended the Lease twice. The parties executed (a) the First Amendment to Lease on September 14, 2007; and (b) the Second Amendment to Lease on October 19, 2010 (collectively, the “Amendments”) Paragraph 6 of the Second Amendment to the Lease includes the integration of the contemporaneous Environmental Remediation Agreement (the “ERA”) under which the Men’s Wearhouse agreed that “it will remediate any Environmental Conditions ... caused by its operations or the operations of any predecessor-in-interest.”

**CURE CLAIM OBJECTION**

6. Section 365(b)(1) of the Bankruptcy Code provides, in pertinent part, as follows:

If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee –

- (A) Cures, or provides adequate assurance that the trustee will promptly cure, such default...
- (B) Compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default;

11 U.S.C. 365(b)(1).

7. Section 365(b)(1) includes compensation to landlords for sums incurred for attorneys' fees and expenses where the lease agreement provides such rights to the landlord. The Lease provides for recovery of attorneys' fees and expenses on a prevailing party basis at section 20.22. Podco hereby objects to the assumption of the Lease listed in the Plan Supplement absent full payment of Podco's attorneys' fees and expenses.

8. As of the date of this Objection, Podco objects to the Proposed Cure Amount and further objects to the assumption of the Lease absent payment of the monetary cure amount listed below (the "Revised Cure Amount") and the acknowledgment by the Debtors that non-monetary obligations under the Lease is not . Podco herein reserves the right to file supplementary cure objections.

9. The Revised Cure Amount owed under the Lease, as of the date of this Objection, is indicated in the below table:

Property Location	Proposed Cure	Required Cure	
2101 Executive Drive, Addison, IL 60101	\$17,035.06	Base Rent	\$118,299.01
		2019 Taxes	\$114,533.62
		2020 Taxes (Jan.-Aug.)	\$83,991.32
		Attorneys' Fees	TBD
		<b>Total Cure Due</b>	<b>\$316,823.95</b>

10. Podco further objects to the assumption of the Lease absent payment of all additional monetary defaults accrued thereunder from the date of this Objection through the effective date of assumption, including without limitation any amounts that will become due or be invoiced on or after October 28, 2020 (*e.g.*, additional amounts, not yet known, that accrued following the date of this Objection, such as year-end adjustments to various items including without limitation real estate taxes, common area maintenance, percentage rent and insurance), as well as any additional attorneys' fees and costs accrued in prosecuting this Objection.

11. Finally, the proposed assumption must be *cum onere*, and include the Men's Wearhouse's ongoing obligations to remedy any Environmental Condition as defined under the ERA regardless of its potentially pre-petition origin. *See* 11 U.S.C. § 365(b)(1)(A) (requiring cure of monetary and non-monetary defaults).

12. Podco attempted to negotiate a consensual resolution to this dispute before filing this Objection. If such negotiations commence in earnest, the parties may adjust the Revised Cure Amount by agreement. Podco hereby reserves its right to amend this objection as additional facts or negotiations dictate.

### **JOINDER**

13. In addition to the foregoing, Podco further joins in the objections filed by the Debtors' other landlords to the extent that such objections are not inconsistent with the relief requested in this Objection.

### **RESERVATION OF RIGHTS**

14. Podco reserves the right to supplement, modify, or amend this Objection and make such other and further objections to the proposed Plan and related transactions, including any assumption and/or assignment of the Lease. Nothing set forth therein shall constitute a waiver,

discharge, or disallowance of any rights, claims, causes of actions, or defenses that Podco has asserted or may assert against the Debtors.

**CONCLUSION**

WHEREFORE, for the reasons set forth above, Podco respectfully requests that this Court (a) sustain this Objection; (b) require that any order authorizing the assumption of the Lease affirmatively requires the Debtors to (i) pay all amounts accrued but not yet satisfied prior to the assumption date, including attorneys' fees and expenses, and (b) assume the Lease subject to the ; and (iii) grant Podco such further relief as it deems proper.

Respectfully submitted this 6th day of November, 2020.

**QUINN EMANUEL URQUHART &  
SULLIVAN, LLP**

*By: /s/ Patricia B. Tomasco*

\_\_\_\_\_  
Patricia B. Tomasco (SBN 01797600)

Devin van der Hahn (SBN 24104047)

711 Louisiana Street, Suite 500

Houston, TX 77002

Telephone: (713) 221-7000

Facsimile: (713) 221-7100

Email: [pattytomasco@.com](mailto:pattytomasco@.com)

Email: [devinvanderhahn@quinnemanuel.com](mailto:devinvanderhahn@quinnemanuel.com)

*Attorneys for Podco Addison LLC*

**CERTIFICATE OF SERVICE**

I, Patricia B. Tomasco, hereby certify that on the 6th day of November, 2020, a true and correct copy of the foregoing Objection was served through the CM/ECF system to all parties registered to receive electronic notices in this case.

/s/ Patricia B. Tomasco

Patricia B. Tomasco